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IN THE

Supreme Court of the United States

OCTOBER TERM, 1959

No. [redacted]

LEAGUE OF WOMEN VOTERS OF THE UNITED STATES,
A District of Columbia Corporation, *Petitioner*,

v.

THE UNITED STATES, *Respondent*.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF CLAIMS

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PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF CLAIMS

Petitioner prays that a writ of certiorari issue to review the judgment of the United States Court of Claims, entered in the above entitled case on January 20, 1960.

OPINION BELOW

The opinion of the Court of Claims (Appendix, pp. A1-A8 *infra*, R. 93-99) is reported at 180 F. Supp. 379.

JURISDICTION

The judgment of the Court of Claims was entered on January 20, 1960 (R. 175). A Motion for Rehearing filed on February 18, 1960 (R. 177-180) was denied on April 6, 1960 (R. 183). The jurisdiction of this Court is invoked under 28 U.S.C. Section 1255(1).

QUESTIONS PRESENTED

1. Whether, where a non-profit corporation organized and operated exclusively for educational purposes includes among its activities the study and discussion of public issues and in some instances the adoption through democratic processes of positions on legislation, such activities constitute "carrying on propaganda, or otherwise attempting to influence legislation" within the meaning of Section 812(d) of the Internal Revenue Code of 1939.

2. Whether a substantial part of the activities of the League of Women Voters of the United States consisted of "carrying on propaganda, or otherwise attempting to influence legislation" so as to render bequests to such corporation ineligible for the estate tax deduction provided in Section 812(d) of the Internal Revenue Code of 1939.

STATUTE INVOLVED

SEC. 812. NET ESTATE.

For the purpose of the tax the value of the net estate shall be determined, in the case of a citizen or resident of the United States by deducting from the value of the gross estate—

* * * * * * * * *

(d) *Transfers for Public, Charitable, and Religious Uses.*—The amount of all bequests, legacies,

devises, or transfers, to or for the use of any corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation. * * *. (26 U.S.C. 1952 ed., Sec. 812.)

STATEMENT

The will of Ann Webster, a resident of New Mexico, who died on November 2, 1949, named the League of Women Voters of the United States as sole legatee of her residuary estate (Fdg. 1, R. 105). The estate was required to pay, and on July 1, 1952 did pay, a Federal estate tax based upon the value of the net estate without allowing a deduction for the bequest to the League. No estate tax would have been due had such bequest been allowed as a deduction (Fdg. 2, R. 105). On September 13, 1954 the League, as sole residuary legatee of the estate, filed a timely claim for refund of the estate tax (Fdg. 4, R. 106). No refund was made and on May 29, 1956 the League petitioned the Court of Claims for a refund of the estate tax (Fdg. 4, R. 106). The Court of Claims found, two judges dissenting, that the tax deduction was not allowable to the estate because a substantial part of the activities of the League was the influencing of legislation.

The League of Women Voters of the United States is organized under Chapter 6 of Title 29 of the District of Columbia Code, which authorizes the formation of non-profit charitable, educational and religious corporations. The League is publicly supported, and

operates for the benefit of the general public and not for the benefit of private individuals. It does not engage in party politics. Its Articles of Incorporation provided in 1949, and still provide, as follows (Fdg. 6(a), R. 106):

> The business and objects of the corporation shall be to promote political responsibility through informed and active participation of citizens in government; to render such other services in the interest of education in citizenship as may be possible; and to do every act appropriate or necessary to carry out any of the foregoing objects.
>
> The corporation shall not support or oppose any political party or candidate.

The relevant by-laws provided in 1949, and still provide, as follows (Fdg. 6(b), R. 106):

> SEC. 1. *Purpose.*—The purpose of the League of Women Voters of the United States shall be to promote political responsibility through informed and active participation of citizens in government.
>
> SEC. 2. *Policy.*—The League may take action on governmental measures and policies in the public interest. It shall not support or oppose any political party or candidate.

The League's stated purposes "to promote political responsibility through informed and active participation of citizens in government" and to render "services in the interest of education in citizenship" are effected in many ways. The League compiles and presents in factual form the records and platforms of candidates for public office (Fdg. 39(b)(7), R. 152; Fdg. 47(a)(3), R. 165), arranges meetings at which voters may meet, hear and question candidates (Fdg.

3)(b)(7), R. 152), and educates the public in a variety of ways about the importance of registering and voting (Fdg. 16, R. 124-125; Fdg. 53(2)(h), R. 172). Members of the League and the general public are also instructed in the functions of government and public institutions through study groups and seminars on such topics as "Know Your State," "Know Your County" and "Know Your Town Government" (Fdg. 13(a), R. 118-119; Fdg. 18(a), R. 127).

The League's program of education in the responsibilities of citizenship includes not only a study of the structure and mechanics of government, but also consideration of problems facing local, state and federal governments, as well as the nations of the world (Fdg. 13(c), R. 119-120). This consideration of public issues, the inevitable end-product of study and discussion, is developed through the rigorous democratic processes of the League's program system.

The Program of the League is developed by means of a series of recommendations originating at the League's grass roots level (Fdg. 11(a), R. 108-109). The local Leagues and State Leagues, after study and discussion, make program recommendations to the national League, which in turn works out a tentative Program. This tentative Program is submitted to the local and state Leagues for further consideration and recommendations. The national League then presents a proposed Program to the National Convention of the League of Women Voters. If the convention adopts the Program, it becomes the Program of the League (Fdg. 11, R. 108-110).

The Program which is adopted by the convention consists of the "Current Agenda" and "The Platform." The Current Agenda indicates the topics upon

which the League has decided to concentrate its activities during the next two years. The Platform comprises topics on which the League has taken a stand in the past and on which it proposes to maintain its stand, although it may not pursue any activities in furtherance thereof (Fdg. 11(b), R. 109-110).

Where the League undertakes the study of a topic, there is no *a priori* determination of whether a position will ultimately be adopted, much less of what such position may be. Each topic is carefully studied and every attempt is made to ascertain all of the relevant facts (Fdg. 13(a), R. 117-118). Many of the topics on the League's Program involve no legislation or proposed legislation and merely envisage educational campaigns (Fdg. 12, R. 110-117). In the case of some topics no League position is ever adopted and nothing further is done (Fdg. 13(b), R. 119; Fdg. 21, R. 132). Where a position is finally adopted, the League usually prepares and publishes informational material and from time to time sponsors conferences at which such material may be utilized. It may also issue a "Request for Action," which asks that the members of the League voice their individual views with their legislative representatives or exercise their franchise in support of such position (Fdg. 15(a), R. 121). Finally, in certain isolated cases, the League itself may undertake to contact legislators directly or to make statements before legislative bodies (Fdg. 22(g), R. 134-137). These activities, the Requests for Action and the direct legislative contact and statements, involve less than two percent of all the League's activities, whether measured by proportion of time devoted thereto or by proportion of League expenditures (Fdg. 23(a), (b), R. 137; Fdg. 24, R. 139).

All five judges of the Court of Claims held that the League was, in fact, an educational organization. However, the majority, speaking through Judge Madden, two judges concurring, considered that all of the activities of the League in deliberating and discussing questions of public interest and what position, if any, should be taken on such questions, constituted preparation for the influencing of legislation. In other words, all action from the time of the adoption of the Program was held to be taken for the purpose of influencing legislation, even when such action largely consisted of study, discussion and dissemination of information (Appendix, pp. A7-A8, R. 99). Thus the Court found that, although the activities of the League were the "most useful and laudable kind" of educational activity, a bequest to the League of Women Voters did not qualify for the tax deduction under Section 812(d) of the Internal Revenue Code of 1939.

This reasoning did not convince Chief Judge Jones and his predecessor, former Chief Judge Littleton, who joined in a dissenting opinion (Appendix, pp. A8-A-15, R. 99-104). Chief Judge Jones stated that the statute was not intended to disqualify an organization, such as the League, which attempts to promote general policies and principles of government that may be implemented by legislation or by other practices and customs inuring to the benefit of all citizens and tending to promote sound government. He further declared (Appendix, p. A11, R. 101-102):

> We cannot believe it was the intention of the Congress to deny an exemption to an otherwise qualifying organization merely because it seeks in some instances, in a wholly unselfish manner, to translate principles of government into the form of legislation, when the organization will derive

no special benefit from that legislation. The language does not require it, and certainly the interests of the Nation would not be served if this organization should cease to take an interest in public affairs.

An alternative ground for the dissenting opinion was that the legislative activities of the League were, in any event, insubstantial in comparison to its general educational activities. Upon the basis of the Findings of Fact, which show that not more than two percent of the League's activities involved contacts with legislators, advocacy of specific legislation and requests for membership action on such legislation, the minority concluded that only "a very small part of the activities of the organization as a whole is devoted to influencing legislation. . . ." (Appendix, pp. A14-A15, R. 104).

REASONS FOR GRANTING CERTIORARI

A. The Court below erroneously determined a question of national importance in the application of provisions of the Internal Revenue Code relating to deductions for contributions to educational and charitable organizations.

B. The decision below is in conflict with decisions of the Courts of Appeals for the Sixth and Second Circuit.

A. Section 812(d) of the Internal Revenue Code of 1939 grants an estate tax deduction for contributions to non-profit educational organizations, provided that no substantial part of their activities consists of "carrying on propaganda, or otherwise attempting to influence legislation." The Court below has interpreted this clause in such manner as to foreclose the possibility of deducting contributions to any organization which seeks to provide practical education in the responsibilities of citizenship. Since there is no area of education more vital to the well-being and survival

of our democratic society than the study of governmental problems and training in the duties of citizenship, an interpretation of the revenue laws which dries up the sources of support for such educational programs is detrimental to the welfare of this nation.

For decades both the estate and income tax laws have contained substantially identical provisions allowing a deduction for contributions to non-profit religious, charitable, scientific, literary and educational organizations. In 1934 the limitation was added that no substantial part of the activities of such organizations may consist of "carrying on propaganda, or otherwise attempting to influence legislation." In applying such limitation it is necessary to determine (a) what kinds of activity fall within the proscribed legislative category, and (b) how much of such activity an organization may carry on before the amount becomes "substantial."

In the trial of the case below the League acknowledged that its advocacy of specific legislation in its publications, its calls upon the membership to communicate their views to legislators, its contacts with legislators and statements before legislative bodies, as well as certain other actions,[1] constituted "attempt-

[1] Paragraph 22 (g) of the Findings of Fact of the Court of Claims describes the League's legislative category, which comprises not more than two percent of the League's total activities (Fdg. 23(a), (b), R. 137), as follows (Fdg. 22(g), R. 134):

> (g) *Legislative.*—This category consists of time spent in following specific measures or bills pending in Congress in which the League was interested, as well as all time devoted to taking action on such bills after a position had been taken thereon. As hereinabove noted, the time devoted to study, research, or dissemination of information on such measures or bills prior to the time the League actually took a position thereon is not included in this category. However, all time

ing to influence legislation." The League insisted, however, that its study and discussion of public issues, which provided enlightenment on a variety of contemporary problems and resulted in some instances in the adoption of a position favoring or opposing particular legislation, were an indispensable part of educating women in the responsibilities of citizenship and were not the kind of activity which Congress had in mind when it limited the amount of permissible legislative activity. This standard is consistent with the Treasury's own regulations to the pertinent sections of the Internal Revenue Code of 1954, the language of which is identical to the language in issue under the 1939 Code. Section 1.501(c)(3)-1(c)(3)(ii) of the regulations states:

> . . . an organization will be regarded as attempting to influence legislation if the organization:
>
> (a) Contacts, or urges the public to contact, members of a legislative body for the purpose of proposing, supporting, or opposing legislation; or
>
> (b) Advocates the adoption or rejection of legislation.[2]

spent in preparing that part of the League's publications indicating a League position on legislation, such as the "Congressional Spotlight" section in "Action", as set forth in finding 18 (b), is included. General statements or articles setting forth the League's position in favor of an item, such as the United Nations, or any component part thereof, such as the World Health Organization, has not been included in this category in situations where the statement or article did not relate to any specific bill then pending which the League was supporting or opposing.

[2] Testimony given in 1954 by an Assistant Commissioner of Internal Revenue before the Special Committee of the House of Representatives to Investigate Tax Exempt Foundations and Comparable Organizations indicates that the current regulations reflect

By this standard, the record below and the Findings of Fact of the Court of Claims Commissioner who heard the case incontrovertibly establish that less than two percent of the activities of the League of Women Voters constitute "attempting to influence legislation" (Fdg. 23(a), (b), R. 137). No one has seriously contended that two percent is substantial.

It is also clear from the record and the Findings of Fact that the League's primary purpose is educating women in the responsibilities of citizenship.[3] The ma-

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a long-standing policy. The following statement is particularly pertinent:

> Actually, our statutory base is the language of propaganda or otherwise attempting to influence legislation. The qualification there, of course, is that the statute denies exemption only if a substantial part of the activity of the organization is lobbying. So that the type of general education—public education—which an organization may propagate, which may end up in people expressing their views to the Congress generally, would not come within the category of lobbying, unless it is directed particularly to that end or takes the form particularly of letters or telegrams and so forth, from the organization to the Members of Congress. (Hearings on H. Res. 217, 83d Cong., 2d Sess., 1954, p. 437.)

[3] The current Treasury Regulations give the following definition of "education":

> (3) *Educational defined*—(i) *In general.* The term "educational", as used in section 501(c)(3), relates to:
>
> (a) The instruction or training of the individual for the purpose of improving or developing his capabilities; or
>
> (b) The instruction of the public on subjects useful to the individual and beneficial to the community.
>
> An organization may be educational even though it advocates a particular position or viewpoint so long as it presents a sufficiently full and fair exposition of the pertinent facts as to permit an individual or the public to form an independent opinion or conclusion. On the other hand, an organization is not educational if its principal function is the mere presentation of unsupported opinion. (Treas. Reg. Sec. 1.501(c)(3)-1(d)(3).)

jor part of its program involves areas unrelated to legislation, such as studying the operations of local, state and federal governments and international agencies, and providing the electorate with impartial information relevant to their voting responsibilities. Yet, because the League in some instances, after months of study and discussion, does take a stand on public issues, including legislation, the majority below has treated the whole educational process as an attempt to influence legislation.[1] By thus letting the tail wag the dog, the majority has found the League's legislative activities to be "substantial."

Under the majority view no organization educating in the field of government could meet the requirements of the statute unless it limited itself to abstract theory and to uncritical discussions of government forms and mechanisms—in other words, to educating in a vacuum. Any deliberation concerning the great public issues of the day which might affect a person's stand on legislation, no matter how objectively handled, would, under the majority view, necessarily introduce a substantial element of "attempting to influence legislation" and thus disqualify the educational organization from the benefits of the statute.

To maintain a tax exemption under the decision of the majority, the League would have to become a mere disseminator of information, devoted to "pure and purposeless research" (Appendix, p. A8, R. 99). Without the impetus and opportunity given to League mem-

[1] The majority opinion appears to stigmatize as attempts to influence legislation even the preparation, study and discussion of the vast amount of material of a general informational nature on such topics as the United Nations, world trade and fiscal policy although such material for the most part does not deal with legislation (Appendix, pp. A5-A8, R. 96-99).

bers to act upon their political ideas, the League members would become mere passive depositories of such information. In the educational process, it is the doing of an act which teaches how to act, and it is the exchange of ideas, the dialectic testing of ideas, by which thinking processes are refined and ideas are evaluated. By erroneously extending the definition of "influencing legislation" to the League's educational functions and process, the Court of Claims and the Commissioner of Internal Revenue have penalized activities which are vital to a democratic society.

Notwithstanding the reasonable dividing line indicated in the current regulations, the Commissioner of Internal Revenue appears to have developed a rigid attitude with respect to those educational organizations which seek to educate the electorate in political and governmental matters. Since the decision was rendered in the instant case, the Commissioner has gone so far as to rule that deductions are not allowable for contributions made to an organization whose activities consisted of distributing educational materials to schools and conducting non-partisan seminars and workshops on the campuses of colleges and universities on the subjects of politics and government. Rev. Rul. 60-193, 1960-20 Int. Rev. Bull. p. 24.

It is important to the survival of some of the most useful and most highly respected educational and charitable institutions in the United States that the interpretation of the statute be clarified and corrected.

B. The Supreme Court should grant certiorari to review the decision below because it is in conflict with decisions of the United States Courts of Appeals for the Sixth and Second Circuit.

The Seasongood Case. In the case of *Seasongood v. Commissioner of Internal Revenue*, 227 F. 2d 907 (6th

Cir. 1955), rev'g 22 T.C. 671 (1954), the Circuit Court held that a contribution to the "Hamilton County Good Government League" was deductible for income tax purposes.[3] The stated purposes of this organization were to provide an opportunity for discussion of matters of civic importance and to advance good government. The Tax Court and the Circuit Court were in agreement that the Hamilton County Good Government League was an educational organization and that its aims were principally charitable or educational. However, the Tax Court found that the work of the organization in investigating and actively sponsoring or opposing proposed legislation required a denial of tax exempt status. The Circuit Court found, on the other hand, that in view of the overall unselfish purposes and activities of the organization, the "political activities," which were less than five percent of all of the activities of the organization, were not substantial within the meaning of the exemption statute.

In the *Seasongood* case the activities of the Hamilton County Good Government League in carrying on public forums, discussions and educational programs on questions of public interest were not considered to be legislative in nature *despite* the fact that such activities led to an insubstantial amount (five percent) of direct legislative activity. Conversely, the Court below held that the activities of the League of Women Voters in studying, discussing and disseminating factual information about questions of public interest were legislative in

[3] The test of deductibility for income taxes provided in Section 23(o) of the Internal Revenue Code of 1939 was the same as that in Section 812(d); the contribution had to be made to an organization "operated exclusively for religious, charitable, scientific, literary, or educational purposes, * * * and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation."

nature *because* such activities led to an insubstantial amount (two percent) of direct legislative activity. This is the area of square conflict between the two cases.

The Dulles Case. The decision of the Second Circuit in the case of *Dulles* v. *Johnson*, 273 F. 2d 362 (2d Cir. 1959), likewise conflicts with the holding of the Court below. In the *Dulles* case, the Commissioner of Internal Revenue contested the deductibility under Section 812(d) of bequests to Bar Associations on the theory that a substantial portion of the Associations' activities were devoted to the influencing of legislation. The Second Circuit found that the legislative activity of the Associations did not result in nondeductibility of the bequests because (1) the Associations were not intending through such activity to serve any selfish purpose, but rather to improve court procedure and clarify substantive law, and (2) the legislative activity involved was a small portion of the total activity of the Associations. The Court declared as follows (273 F. 2d at 367):

> These activities serve no selfish purpose of the legal profession—rather they constitute an expert's effort to improve the law in technical and non-controversial areas. In our opinion these activities are scientific, educational and charitable.
>
> The Government argues that these activities constitute propaganda and represent a substantial part of all the activities of the Associations. The cases upon which the Government relies are inapposite. Those cases involved organizations whose principal purpose was to implement legislative programs embodying broad principles of social amelioration. [Citations omitted] Here, on the other hand, approval of or opposition to proposed legislation constitutes but a small portion of the

> total activity of the Associations. Hence this case is closer to *Seasongood* v. *C. I. R.*, 6 Cir., 1955, 227 F. 2d 907. Moreover, the legislative recommendations of the Associations, insofar as these recommendations do not involve matters the responsibility for which has been entrusted to the Associations by the Legislature, are designed to improve court procedure or to clarify some technical matter of substantive law. They are not intended for the economic aggrandizement of a particular group or to promote some larger principle of governmental policy. These two factors leads us to the conclusion that the recommendations of the Associations concerning impending legislation are not such as to cause the forfeiture of charitable status under Section 812(d).

In the *Dulles* case the purposes and motives of the Associations constituted a crucial factor. The Court emphasized that the legislative activities of the Associations served no selfish purpose but rather were performed in the public interest.[6] Such holding squares precisely with the dissent in the instant case and with the following language of Chief Judge Simons in the *Seasongood* case (227 F. 2d at 911, 912):

> And what is meant by "otherwise attempting to influence legislation"? The statute does not elucidate the phrase and no legislative history has been cited to throw light upon it. In one sense, nearly

[6] The minority opinion of the Court of Claims in the instant case (Appendix, p. A12, R. 102-103) makes reference to Congressional debate indicating that the amendments to Code Sections 812(d) and 23(o) adopted in 1934 were not intended to disqualify organizations like the League whose interest in legislation did not arise from selfish motives (Congressional Record, Vol. 78, part 6, page 5861, April 2, 1934), but rather to reach "organizations which are receiving contributions *in order to* influence legislation and carry on propaganda" (Congressional Record, Vol. 78, part 6, page 5959, April 4, 1934). (Emphasis supplied)

> every effort made by individuals or organizations in the public interest and for the betterment of government necessarily, has as an indirect result at least, some influence on legislation .... So, here, the method of influencing legislation must be considered and there is nothing in the findings of fact that either challenges the validity, the good faith purpose, or any untoward result in the communications addressed by the League either to its members, public opinion generally, or to legislative or administrative officers. Nothing in the record indicates lobbying, influence peddling or illegal or unethical pressures upon legislators. Little is disclosed other than letters to the Governor and an appearance before a legislative committee.

Two of the judges in *Seasongood* disagreed with the above-quoted portion of Chief Judge Simons' opinion. Thus their view and the view of the majority below conflict with the holding in the *Dulles* case.

The League of Women Voters filed a Motion for Rehearing on the ground of conflict with the *Dulles* case, which had not been decided until after oral argument before the Court of Claims. The government's Memorandum in Opposition to such Motion did not deny the existence of a conflict, but merely stated (R. 181): "The *Dulles* case is wrong."

On June 23, 1960, the Government filed a conditional petition for certiorari in the *Dulles* case (Petition No. 1030), in which the Government again asserted that the *Dulles* case was erroneously decided (p. 6). The implication is clear that the Government will continue to contest the deductibility of donations to bar associations, notwithstanding the *Dulles* case.

In conclusion, it should be noted that the League of Women Voters has been held to be a tax-exempt educa-

tional organization in the following lower court cases: *Liberty National Bank and Trust Co.* v. *United States*, 122 F. Supp. 759 (W. D. Ky. 1954); *Charles W. Dahlinger*, 20 B.T.A. 176 (1930); and *Luther Ely Smith*, 3 T. C. 696 (1944).[7] Contra, *Henriette T. Noyes*, 31 B.T.A. 121 (1934). In *Liberty National Bank* the Court declared as follows (122 F. Supp. at 766):

> In urging the citizenship within the area of its influence to qualify as voters and to be informed upon the issues settled by exercise of the suffrage of the electorate, the League has rendered invaluable services in the fight against carelessness and indifference in public affairs. If upon sporadic occasions the zeal of its members has invaded the prohibited area of attempting to influence legislation, this becomes of little consequence viewed against the background of the whole of their efforts in behalf of better government.

Inasmuch as the decisions of two circuit courts conflict with the holding of the majority of the Court of Claims below, the proper administration of the law requires that the conflict be settled.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that this petition for a writ of certiorari be granted.

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[7] The Commissioner of Internal Revenue acquiesced in the *Smith* case in 1944 Cum. Bull. 26. This acquiescence was specifically reconfirmed in 1958-1 Cum. Bull. 7, note 21.

APPENDIX

IN THE UNITED STATES COURT OF CLAIMS

No. 232-56

(Decided January 20, 1960)

LEAGUE OF WOMEN VOTERS OF THE UNITED STATES, A DISTRICT OF COLUMBIA CORPORATION v. THE UNITED STATES

Mr. Albert E. Arent for the plaintiff. *Mr. Francis J. Robinson* and *Messrs. Berge, Fox & Arent* were on the briefs.

Mr. Lyle M. Turner, with whom was *Mr. Acting Assistant Attorney General Howard A. Heffron*, for the defendant. *Messrs. James P. Garland* and *William T. Kane* were on the brief.

OPINION

MADDEN, *Judge*, delivered the opinion of the court:

This is a suit by the plaintiff League of Women Voters for the refund of estate taxes. The League was the residuary legatee under the will of Ann Webster, a resident of New Mexico, who died in 1949. The total gross estate was $142,014.22. The residue, after deducting the specific bequests, was $112,269.89. The estate was required to pay a Federal estate tax of $11,913.70, all of which was paid out of the residue of $112,269.89 and therefore reduced the gift to the League by the amount of the tax.

The plaintiff says that the bequest to it should have been allowed as a deduction from the gross estate, for estate tax purposes. If such a deduction had been allowed, no estate tax would have been payable, and the plaintiff would have received $11,913.70 more than it did receive. The

plaintiff relies upon section 812 of the Internal Revenue Code of 1939, which says, so far as is here pertinent:

> SEC. 812. NET ESTATE.
>
> For the purpose of the tax the value of the net estate shall be determined, in the case of a citizen or resident of the United States by deducting from the value of the gross estate—
>
> . . . . . .
>
> (d) *Transfers for Public, Charitable, and Religious Uses.*—The amount of all bequests, legacies, devises, or transfers, to or for the use of any corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation. * * *. (26 U.S.C. 1952 ed., Sec. 812.)

The plaintiff says that it is operated for educational purposes, and is therefore within the scope of section 812(d). The Government seems to dispute this contention, but we have no doubt about it, as will appear from our discussion. The real point in contest is with regard to the requirement of section 812(d) that no substantial part of the activities of the organization should be the carrying on of propaganda or otherwise attempting to influence legislation.

The plaintiff League is a non-profit organization. It was projected at the 1919 convention of the National American Woman Suffrage Association whose work for women's suffrage had by that time been completed by the adoption of the Nineteenth Amendment. The League had its first convention in 1920. It was then an affiliation of state leagues. In 1923 it was incorporated under the laws of the District of Columbia relating to non-profit, charitable, edu-

cational and religious corporations. Its principal office is in Washington, D.C. Its articles of incorporation provide:

> The business and objects of the corporation shall be to promote political responsibility through informed and active participation of citizens in government; to render such other services in the interest of education in citizenship as may be possible; and to do every act appropriate or necessary to carry out any of the foregoing objects.
>
> The corporation shall not support or oppose any political party or candidate.

Its by-laws provide:

> SEC. 1. *Purpose.*—The purpose of the League of Women Voters of the United States shall be to promote political responsibility through informed and active participation of citizens in government.
>
> SEC. 2. *Policies.*—The League may take action on governmental measures and policies in the public interest. It shall not support or oppose any political party or candidate.

The League, in the tax year here in question, was made up of 709 local Leagues, and 35 state Leagues, all heading up in the national organization. Approximately 128,000 women were members of the League. Its organization and method of operation are described in great detail in our findings, and will be described only summarily in this opinion.

The League has developed a program system which is designed to limit the number of problems to be currently studied or acted upon by the League. The program is authorized by the League's biennial national convention. The individual members and their representatives make the program by discussing in their local League what they think the program should be, after which the local Leagues make recommendations to the national board of subjects for the program. State boards also submit recommenda-

tions. The national board meets some months before the convention and works out a "proposed program." It submits this proposed program to the local and state Leagues, which have six months to study and consider it, and may again submit recommendations. In the light of all this study, discussion and recommendation the national board presents a final proposed program to the convention. If the convention adopts it, which it usually does, it becomes the program of the League.

The program consists of the "current agenda", the topics on which the League believes it can be effective during the following two years, and the "platform" which comprises topics on which the League has taken a stand in the past and on which it proposes to hold its ground although these topics may not be currently in question.

After the national biennial convention of the League in 1949, the League's official publication made the following statement:

> The current agenda is made up of those governmental issues which the Convention has chosen for concerted action. Action may include (1) providing information, (2) building public opinion, (3) supporting legislation. It is the responsibility of the National Board of Directors to supply the membership with basic information on these items and to determine at a specific time the action that will be most effective in achieving the following goals:
>
> CURRENT AGENDA
>
> The League of Women Voters will work for United States policies directed toward an enduring world peace, supported by a strong United Nations and made possible by a sound domestic and world economy. To this end, League action will concentrate on:
>
> I. *Strengthening the United Nations through—*
>
> A. Support of the United Nations and its specialized agencies including their development through increased use, adequate budgets, and improved procedures under the present Charter.

B. Use of all means available under the Charter to increase the security functions of the United Nations.

C. A full information program on methods to strengthen the United Nations in order that it may better fulfill its stated purpose.

II. *Promoting international reconstruction and the expansion of world trade.*

III. *Analyzing federal taxes and expenditures in order to understand and support such fiscal policies as make for a stable domestic economy.*

The official League publication then went on to give a detailed explanation of the "Current Agenda." This explanation shows that it was the intention of the League to take vigorous action to achieve its goals. We see no way in which most of those goals could be achieved except by legislation by Congress, or by the United Nations, or by international treaties.

It was not the purpose of the League merely to make its members, or the public, intelligent about the problems of the United Nations and the expansion of its powers to enforce world security, or about the Marshall plan and international trade organizations and reciprocal trade. It was its purpose, through its membership and its officials, to do what it could to influence those who were in a position to bring about these results, if they could be persuaded to do so.

In an official League publication, entitled "A History of the League Program" published in 1949, appears the following:

LEAGUE PROGRAM AND LEAGUE PURPOSE

Sometimes the League of Women Voters is referred to as an "educational" organization which presents both sides of issues and leaves it up to the member to make up her mind. This is an incomplete description. Although the League does carefully consider a ques-

> tion from all points of view, it goes farther. It uses its own machinery of representative government to arrive at a position and take action on behalf of that position. This it considers necessary to the fulfillment of its purpose "to promote political responsibility through informed and active participation of citizens in government." Citizens do not assume responsibility without making decisions. The League was created to provide practice in making decisions.

As we have seen, one form of League action is that of supporting legislation. This form of action may include a "Request for Action" to the state and local Leagues, setting forth the League's position on any pending legislation and requesting that each state and local League write letters or send telegrams to designated persons setting forth the League's position. For instance, a "Request for Action" was sent on May 17, 1949, urging action on five bills and the Atlantic Pact Treaty. Typical was the action urged with respect to the item "Removal of Margarine Taxes (H.R. 2023)", as follows:

> Already passed by the House and favorably reported by the Senate Committee, this measure runs the risk of being lost again in the rush of Senate business. Letters should go now to all Senators (and especially to Democratic leaders Barkley, Lucas and Myers) urging them (1) to do all they can to bring this bill to the Senate floor before the summer recess, and (2) to oppose the Wiley amendment which would prohibit the interstate shipment of colored oleo.

Communications are also sent advising the local Leagues concerning positions taken, such as the letter dated May 2, 1949, stating:

> This letter brings you word that the League of Women Voters supports United States ratification of the North Atlantic Pact. * * * A League representative will testify before the Senate Foreign Relations Committee on behalf of the Pact. You may expect a Request for Action when League action can be most helpful.

Our finding 22(g) lists twenty-two separate instances of direct communications from the national League or its officials to persons in positions of authority with regard to legislation. These instances occurred during the two-year period of action planned at the League's 1948 convention.

The activities of the state and local Leagues in connection with state and local problems are carried on in much the same way, in their more limited areas, as are those of the League as a whole in connection with national problems.

The local Leagues carry on many activities which have no relation to influencing legislation. They sponsor meetings at which candidates of all parties, or proponents and opponents of measures present their arguments. They urge those eligible to vote to exercise their privilege. They sometimes distribute literature stating the arguments for and against positions and measures, but not taking a position on either side.

The plaintiff League urges that only an insignificant part of its energies and resources are devoted to efforts to influence legislation. It has presented an accounting, attributing the women hours devoted to League activities to various classifications, and attributing very few such hours to efforts to influence legislation.

It seems to us that the hours spent by some 128,000 women in more than 700 local Leagues, deliberating and discussing what position, if any, should be taken on questions of public interest, are spent in preparation for the influencing of legislation. They are spent for the purpose of presenting a united front to legislative bodies in order to induce action or inaction. When agreement has been reached on a national scale and the League's convention has stated the League's program, it seems to us that all the action of all the women of the League from that time forward is taken for the purpose of influencing legislation. They are studying the League's literature, learning how to

argue effectively for the League's position, readying themselves to respond to the "Request for Action" if it should come from their national officers.

It would seem to us that, instead of its being an unsubstantial and insignificant part of the League's activities, the influencing of legislation is the League's main purpose and reason for being. When the mantle of the National American Woman Suffrage Association descended upon it at its birth, it could hardly have thought of itself as an institution devoted to pure and purposeless research and self-education. As we have said, we have no doubt of the League's status as an educational organization. The education of public-spirited women so that they may, by their agreed opinion deliberately and intelligently arrived at, influence legislators or influence others to influence legislators to reach right decisions, is education of the most useful and laudable kind. But a gift to such an educational institution cannot qualify for a tax deduction under section 812.

The plaintiff's petition will be dismissed.

It is so ordered.

LARAMORE, *Judge*, and WHITAKER, *Judge*, concur.

JONES, *Chief Judge*, dissenting, in which LITTLETON, *Judge (Ret.)* joins:

We are unable to agree that the substantial purpose of the League was "carrying on propaganda or otherwise attempting to influence legislation." Rather, we think its primary or almost exclusive purpose was that of enabling women to capably discharge the duties that the new voting privilege had placed upon them.

It is to their lasting credit that they did not take their new obligation lightly, but sought to prepare themselves to discharge this trust intelligently.

We believe the majority opinion fails to recognize the vast difference between attempting to promote general policies and principles of government that may be implemented by legislation or by other practices and customs that will inure to the benefit of all citizens and tend to promote sound government; and the drive or lobbying for legislation that has for its purpose the serving of the interests of a limited or selfish group. The one may or may not result in legislation. It may be a drive for a treaty, or it may be merely evidenced by a change in the habits, customs and thoughts of a people, while the other has no such over-all objective, but seeks to secure certain privileges for a limited group. We have not the slightest doubt it was the latter type which the Congress sought to put under the ban, and not those who seek to promote the principles of good government, and who seek no advantage to themselves that will not flow to all citizens.

Nearly all the legislation passed by the Congress recognizes this distinction. This is illustrated by antilobbying legislation.

Lobbying is defined in Black's Law Dictionary, 4th edition, page 1086, as follows:

> "Lobbying" is defined to be any personal solicitation of a member of a legislative body during a session thereof, by private interview, or letter or message, or other means and appliances not addressed solely to the judgment, to favor or oppose, or to vote for or against, any bill, resolution, report, or claim pending, or to be introduced by either branch thereof, by any person who misrepresents the nature of his interest in the matter to such member, or who is employed for a consideration by a person or corporation interested in the passage or defeat of such bill, resolution, report, or claim, for the purpose of procuring the passage or defeat thereof. But this does not include such services as drafting petitions, bills, or resolutions, attending to the taking of testimony, collecting facts, preparing arguments and memorials, and submitting them orally

or in writing to a committee or member of the legislature, and other services of like character, intended to reach the reason of legislators.

Practically all the restraining legislation in matters of this kind has to do with representatives or concerns who are seeking to influence the passage of legislation that will be of direct financial interest to themselves or to the concern or association which they represent. Apparently there has never been any thought of restraining or limiting the activities of any organization that has for its primary purpose the dissemination of information that they believe will inure to the benefit of all of the people of the Nation.

An enlightened citizenship is the only hope of a free government. No country that is steeped in ignorance can either become or remain free. How can people retain their rights if they do not understand them? That requires continuous effort. Otherwise the country will sink back to dictatorship and despotism and individual rights will be lost.

Human freedom has involved a long struggle. Through despotisms, aristocracies and dictatorships, ambitious individuals and groups have sought to restrict the rights of men. Wars have been fought and many men and women have lost their lives in the struggle upward toward the plains of liberty. These wars have cost seas of blood, broken hearts, and billions of treasure. Our forefathers wrung from the hands of a foreign tyranny the unhindered right to be free.

But it is not enough to win liberty. It must be maintained by "eternal vigilance;" otherwise it will be lost. The only way a free people may remain free is through the exercise of the ballot—and then only if it is intelligently exercised. We grow used to the precious things of life and take them for granted. With all our boasted progress, not much more than half our citizens exercise the privilege of

the franchise. Much needs to be done in arousing the interest of citizens in perpetuating the principles of free government and in protecting our heritage. Few organizations in our land have made it their primary business to arouse interest in voting and through research and open discussion promote not only the exercise of the ballot but its use in an understanding manner.

We cannot believe it was the intention of the Congress to deny an exemption to an otherwise qualifying organization merely because it seeks in some instances, in a wholly unselfish manner, to translate principles of government into the form of legislation, when the organization will derive no special benefit from that legislation. The language does not require it, and certainly the interests of the Nation would not be served if this organization should cease to take an interest in public affairs.

One of our great universities prints on the flyleaf of its annual catalogue these words

> A cultivated mind is the guardian genius of Democracy. It is the only dictator that freemen acknowledge, and the only security which freemen desire.

To have an organized force with 700 local chapters in every part of this broad, big country that is devoted to stimulating an interest in the problems of government is a distinct national asset.

In our system of government worth-while policies grow out of the customs and habits of the people in the various communities that make up our country. As a rule men do not make laws. They merely discover them. When in the course of progress the customs and habits of a people and sometimes their methods of doing business change, the wise legislator crystallizes these changes into law so that the conduct of all may be brought into line with the wishes of the majority, subject always to the limitation of our Constitu-

tion and Bill of Rights. This is the essence of free government.

The operations of plaintiff organization follow this pattern completely. Its activities, ideals, and moral fibre grow out of the local chapters and local communities. It is like the limbs and roots of a tree. Without the life-giving flow of strength and vitality from these local chapters, the trunk of the tree would be nothing but dried up sap—and as such would wither and die.

Several cases have been decided in which local or State leagues have been held exempt. *Liberty Nat. Bank & Trust Co. v. United States*, 122 F. Supp. 759 (W. D. Ky. 1954), in which a number of cases are cited.[1]

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[1] The phrase "and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation" first appeared in the Revenue Act of 1934. The bill which eventually evolved as that revenue act contained no such limitation as first introduced and passed by the House. It was added by the committee in the Senate being first placed in the section, 23(o)(2), dealing with deductions allowed individuals on contributions to charitable organizations. It was then placed in the estate tax section, where it now appears. The purpose in so doing was stated in the Senate Report as follows:

"This change is necessary to carry out the policy adopted in section 23(o)(2)." [Senate Report 558, p. 46, 73d Cong., 2d Sess.]

What was the policy intended by the placing of the limitation in section 23(o)(2)? The committee reports shed no light, but the discussion on the Senate floor when the amendment to the House bill was brought upon indicates that organizations such as plaintiff were not to be removed from exemption. This discussion lends support to our belief that organizations such as those which act in the general interest of the public, for example those organizations urging adoption of the child labor amendment to which specific mention is made in the discussion, as distinguished from those groups which advance the personal interest of the contributor, are not intended to be denied exemption. Cong. Rec. Vol. 78, Part 6, pp. 5861 and 5959.

The majority draws a distinction between the local chapters and the national organization, but as a matter of fact they are as intimately linked as the law of supply and demand; they are part and parcel of each other. The central organization is but the national arm of the local chapters. it is the channel or clearing house through which the local chapters receive information as to the pros and cons of principles and policies of government and to which they may after discussion convey their position. This information may be again referred to and exchanged with other local chapters before the position or wish of the various chapters is finally determined. The record shows that more than 90 percent of the time of local chapters is taken up with matters of local and community interest. The record does not disclose a single one of the organizations—local, state, or national—seeking to influence legislation that would be of peculiar financial benefit to themselves.

Even if it were determined that the efforts of the organization to influence legislation were of the type intended to be put under the ban, our findings presented by the trial commissioner, who saw the witnesses face to face and who went through the record, and whose findings we have adopted, rather clearly show that the legislative activities were not a substantial part of the League's activities. The seven primary activities of the organization are set out in findings 22 and 23, and in summarizing the hours spent in various types of activity the following percentage is shown:

	Hours	Percentage of Total
Organization	65,758	46.28
Finance	14,383	10.14
Administration	19,150	13.50
Public Relations	11,092	7.82
Program	28,255	19.92
Voters Service	2,468	1.74
Legislative	737	.52
Total	141,843	[1]99.92

[1] Even if the first four of the above items are eliminated, leaving the three categories of program, voters service, and legislative activities, the percentage would be as follows:

	Hours	Percentage of Total
Program	28,255	90
Voters Service	2,468	8
Legislative	737	2
Total	31,460	100

Subsequent findings show the amount of activities of the various local and state chapters and the percentage of time and effort devoted to legislation. The various activities of the League are disclosed in detail in the findings.

We are unable to escape the conclusion that the League of Women Voters is a completely unselfish organization, operating almost exclusively in the public interest. It is clearly not the type of organization which the Congress meant to exclude from the benefits of the tax-exemption section. The activities of the League are in no sense partisan. It is almost wholly educational in its nature. It undertakes to present both sides of every issue to its various integral branch organizations, does not undertake to prejudice the issue but undertakes to reflect the sentiment of the various local bodies which have been reached after thorough consideration and discussion. A very small part of the activi

ties of the organization as a whole is devoted to influencing legislation and none at all to influencing legislation that would inure solely to the benefit of the national organization and its integral chapters.

We would hold that the activities of the organization as a whole bring it within the exemption clauses of section 812(d) of the Internal Revenue Code of 1939, and that the plaintiff therefore is entitled to recover.

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No. 199

In the Supreme Court of the United States

OCTOBER TERM, 1960

LEAGUE OF WOMEN VOTERS OF THE UNITED STATES, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF CLAIMS

BRIEF FOR THE UNITED STATES IN OPPOSITION

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BRIEF FOR THE UNITED STATES IN OPPOSITION

OPINION BELOW

The opinion of the Court of Claims (Pet. A1–A15) is reported at 180 F. Supp. 379.

JURISDICTION

The judgment of the Court of Claims was entered on January 20, 1960 (R. 175). A timely petition for rehearing (R. 177–180) was denied on April 6, 1960 (R. 183). The petition for a writ of certiorari was filed on June 30, 1960. The jurisdiction of this Court is invoked under 28 U.S.C. 1255(1).

QUESTION PRESENTED

Whether the record warrants the finding of the court below that a "substantial part" of petitioner's activities consisted of "attempting to influence legislation", so that a bequest to petitioner did not qualify for estate tax deduction under Section 812(d) of the Internal Revenue Code of 1939.

STATUTE INVOLVED

Internal Revenue Code of 1939:

> SEC. 812. NET ESTATE.
>
> For the purpose of the tax the value of the net estate shall be determined, in the case of a citizen or resident of the United States by deducting from the value of the gross estate—
>
> * * * * *
>
> (d) *Transfers for Public, Charitable, and Religious Uses.*—The amount of all bequests, legacies, devises, or transfers * * * to or for the use of any corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, * * *.
>
> (26 U.S.C. 1952 ed., Sec. 812.)

STATEMENT

The League of Women Voters of the United States, incorporated as a non-profit educational organization

under the laws of the District of Columbia, was named residuary legatee of a decedent's estate. Its articles of incorporation, by-laws, method of operation, and activities, are described in detail in the findings below, and are summarized in the court's opinion. (Pet. A2–A7.) The Court of Claims (two judges dissenting) found that a substantial part of the League's activities consisted of attempting to influence legislation, and accordingly held that the bequest to it did not qualify for Federal estate tax deduction under Section 812(d) of the Internal Revenue Code of 1939. (Pet. A8.)

ARGUMENT

The decision below is correct. There is no conflict or any other occasion for further review.

1. Section 812(d) of the Internal Revenue Code of 1939 authorizes a deduction for Federal estate tax purposes of bequests to a corporation "organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes * * * no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation". Since the test of exclusively charitable or educational purposes by itself excludes organizations operated for private or selfish ends, the additional disqualification of organizations seeking to influence legislation cannot, if it is to have any meaning, be limited to those with selfish motivations. The policy is rather that the federal treasury should remain neutral in political controversies and that no attempt to influence legislation, whether worthy or unworthy,

should be subsidized through tax advantages. "Political agitation as such is outside the statute, however innocent the aim * * *. Controversies of that sort must be conducted without public subvention; the Treasury stands aside from them." Judge Learned Hand in *Slee* v. *Commissioner*, 42 F. 2d 184, 185 (C.A. 2), quoted with approval in *Cammarano* v. *United States*, 358 U.S. 498, 512.

Petitioner concedes (Pet. 9-10) that *a part* of its activities constituted "attempting to influence legislation". The sole issue presented, to which the court below properly addressed itself (Pet. A2), is whether the legislative activities represented a *substantial* part of petitioner's total activities. After reviewing the various legislative activities in which petitioner engaged (Pet. A2–A8), the court concluded that "instead of its being an unsubstantial and insignificant part of the League's activities, the influencing of legislation is the League's main purpose and reason for being" (Pet. A8). That finding has solid evidentiary support and is controlling here.[1] Whether or not they

[1] As appears from the findings of fact, summarized in the opinion below (Pet. A2–A8), the petitioner is a national organization having over 700 local and 35 state constituent Leagues, and approximately 128,000 members. It holds biennial national conventions attended by representatives of the local units, at which a "proposed program" for the next two years is adopted. The program consists of a "current agenda" and a "platform". According to the petitioner's official publication, the current agenda for 1949, for example, comprised "those governmental issues which the Convention has chosen for concerted action", including "supporting legislation"; to this end, League action was to "concentrate on" strengthening the United Nations, promoting international reconstruction and expansion of world

were also of educational value to its members (Pet. 8-9, 11), petitioner's manifold activities were aimed in substantial measure at the enactment or defeat of proposed legislation—activities which clearly amount to "attempting to influence legislation" as that phrase is used in the statute. See Treas. Regs. § 1.501(c)(3)-1.

Petitioner contends that only the time it devotes to direct political agitation—contacts with legislators, preparation of publications advocating specific legislations, etc.—should be considered in determining whether its legislative activities are "substantial." As the Court of Claims found, however, the time spent in formulating and agreeing upon the positions to be advocated is an essential part of petitioner's legislative activity. Petitioner provides its members not merely a forum for academic discussion of public issues but an organization through which they can make themselves felt as a potent political force. The democratic

---

trade, and analyzing Federal taxes and expenditures. The detailed explanation of the "current agenda" contained in the petitioner's official publication shows, as the court below observed (Pet. A5), that it was petitioner's intention, through its members and officials, to do what it could to promote legislation which would achieve these goals. In addition, "Requests for Action" were sent by the national organizations to the local Leagues, stating the petitioner's position on pending legislation and requesting the locals to write or send telegrams to legislators; finding 22(g) lists 22 separate instances of such communications, occurring during the two-year period of action planned at the 1948 Convention. These undisputed facts, together with the other evidence in the record and detailed in the findings, furnish ample support for the Court of Claims' conclusion that a "substantial part" of the petitioner's activities consisted of attempting to influence legislation.

process by which petitioner's program is arrived at means that a relatively larger amount of time is devoted to formulation than to advocacy of the program, but it also gives to its advocacy a respect and effectiveness it would not otherwise have. In short, petitioner's direct political agitation is but the end product of a major part of its activities ultimately directed to achieving desirable governmental policies through legislation, and viewed together those activities are undeniably "substantial."

2. Contrary to petitioner's assertion (Pet. 13–15), the decision below is not in conflict with *Seasongood* v. *Commissioner*, 227 F. 2d 907 (C.A. 6). The decision in that case was predicated on the factual determination that "less than 5% of the time and effort" of the taxpayer was devoted to the activities in question (p. 912)—a determination which impelled the court to conclude that "the so-called 'political activities' of the League were not in relation to all of its other activities *substantial*, within the meaning of the section". Here, on the other hand, the record shows, as the Court of Claims found, that a substantial (if not the major) part of petitioner's activities was devoted, directly or indirectly, to attempts to influence legislation.

Dulles v. *Johnson*, 273 F. 2d 362 (C.A. 2),[2] is also clearly distinguishable. That decision, holding bequests to three bar associations to be deductible, was based entirely upon factors peculiar to the associations involved and not present here. To begin with,

[2] The Government has filed a protective petition for certiorari in the *Dulles* case (No. 170), conditioned on the granting of the petition in this case.

the court held that most of the challenged activities of the bar associations—regulating unauthorized practice of the law, disciplining members of the bar for professional misconduct, and making recommendations with respect to judicial administration and candidates for judicial office—could not properly be classified as attempts to influence legislation, observing that "lawyers play a unique and important role in our society" and therefore "are peculiarly well equipped" to perform such functions (pp. 366–367). The remaining legislative activities were held not to be disqualifying for two reasons: (1) they were "designed to improve court procedure or to clarify some technical matter of substantive law" rather than "to promote some larger principle of governmental policy"; and (2) they constituted "but a small portion of the total activity of the Associations" (p. 367). Petitioner's legislative activities, on the other hand, are undeniably concerned with broad economic, social, or political policies and were expressly found to constitute a "substantial part" of its activities. Whatever its own merits, therefore—and we believe it to have been erroneously decided—the *Dulles* case provides no conflict requiring resolution by this Court.[3]

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[3] There is no conflict with Tax Court and district court decisions relating to the taxability of contributions to the League which would justify the granting of certiorari in this case. The decisions cited by petitioner (Pet. 17–18) involved local leagues whose activities differed from those of the national League and did not entail substantial time spent to influence legislation. It should be noted, moreover, that in *Noyes* v. *Commissioner*, 31 B.T.A. 121, which involved the national League, the Tax Court dis-